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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 MARC OPPERMAN, et al.,

16 Plaintiffs,

17 v.

18 PATH, INC., et al.,

19 Defendants.

Case No. : 13-cv-00453-JST

CLASS ACTION

**STIPULATION AMONG PLAINTIFFS'
COUNSEL IN RELATED CASES REGARDING
ORGANIZATION OF PLAINTIFFS' COUNSEL
IN ALL CASES; [PROPOSED] ORDER**

THIS DOCUMENT RELATES TO ALL CASES

Hernandez v. Path, Inc., No. 12-cv-1515-JST

Pirozzi v. Apple, Inc., No. 12-cv-1529-JST

Gutierrez v. Instagram, Inc., No. 12-cv-6550-JST

Judge: Hon. Jon S. Tigar

1 Whereas on March 12, 2012, the *Opperman* case was filed by the Law Office of Carl F.
2 Schwenker, Edwards Law, the Jordan Law Firm and, associating later, Phillips, Erlewine &
3 Given LLP against, as amended, fourteen defendants; and

4 Whereas on March 26, 2012, the *Hernandez* case was filed by Strange & Carpenter and
5 Law Office of Joseph H. Malley, PC against Path, Inc., a defendant in the *Opperman* case; and

6 Whereas on March 27, 2012, the *Pirozzi* case was filed by Gardy & Notis LLP and
7 Martin Stuart Bakst against Apple, Inc., a defendant in the *Opperman* case; and

8 Whereas on December 27, 2012, the *Gutierrez* case was filed by Strange & Carpenter,
9 Parisi & Havens LLP, Law Office of Joseph H. Malley, PC and The Law Offices of Alan
10 Himmelfarb against Instagram, Inc., a defendant in the *Opperman* case; and

11 Whereas all four cases are putative class actions on behalf of the same or related classes
12 presenting common allegations, issues and claims against overlapping defendants in the cases;
13 and

14 Whereas the Court previously related the *Hernandez*, *Pirozzi* and *Gutierrez* cases to the
15 *Opperman* case; and

16 Whereas the Court ordered the consolidation of those cases pending subsequent to the
17 Court's August 1, 2013 hearing on and determination of Apple, Inc.'s motion to dismiss the
18 *Pirozzi* case and instructed that a single consolidated amended complaint be filed encompassing
19 those cases; and

20 Whereas plaintiffs' counsel in each case desire to work together and avoid unnecessary
21 duplication of effort for themselves, their clients, the putative class members, defense counsel
22 and the Court;

23 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among all
24 plaintiffs' counsel in all four cases that, pursuant to Rule 23(g), Fed. R. Civ. P., and upon the
25 approval of the Court, on consolidation the plaintiffs' efforts in the consolidated cases and any
26 subsequently related cases shall be led by a Co-Lead Counsel composed of:

- 27 • Phillips, Erlewine & Given LLP
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- 1 • Law Offices of Carl F. Schwenker
- 2 • Strange & Carpenter
- 3 • Gardy & Notis, LLP

4 Co-Lead Counsel shall be responsible for the conduct of the consolidated cases, and any
5 related cases against defendants assigned to this Court, including but not limited to:

6 1. Making assignments among counsel of work to be done, including discovery, law
7 and motion practice, class certification issues, and trial.

8 2. Determining at the appropriate time whether an effort should be made to settle
9 the case, and in what manner, or responding to any settlement overture(s) from defendant(s).

10 3. Overseeing the conduct of the litigation so that it proceeds smoothly and
11 efficiently.

12 4. In appointing Co-Lead Counsel the Court proceeds under Federal Rule of Civil
13 Procedure 23(g)(3) which states, “The court may designate interim counsel to act on behalf of a
14 putative class before determining whether to certify the action as a class action.” Rule 23
15 requires that, when appointing counsel, the court must consider certain matters and may
16 consider other matters pertinent to counsel’s ability to fairly and adequately represent the
17 interests of the class. Plaintiffs and their counsel submit that the record in this case
18 demonstrates that the law firms of Phillips, Erlewine & Given LLP, Law Offices of Carl F.
19 Schwenker, Strange & Carpenter and Gardy & Notis, LLP will, in the manner described above,
20 fairly and adequately represent the interests of the putative class in the present action.

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22
23 Dated: July 25, 2013

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1 Dated: July 25, 2013

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IT IS SO ORDERED.

Dated: _____, 2013

HON. JON S. TIGAR
UNITED STATES DISTRICT JUDGE